TORT REFORM PROVISIONS IN THE HOMELAND SECURITY BILL

HON. ROSA L. DeLAURO
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Ms. DELAURO. Mr. Chairman, I rise in strong support of this motion to strike. The irresponsible liability protections added into this bill are unnecessary and dangerous to the public health and safety.

This provision would give the new Secretary of Homeland Security unprecedented executive authority to exempt from civil liability any product that is deemed ''anti-terrorism technology.'' Even willful misconduct would be excused. That means that people injured by a product put out by a company trying to profit from the war on terrorism would be unable to seek recourse of any kind. None.

In fact, the only period during which injured parties can seek recourse for fraud or willful misconduct is, and I quote, ''during the course of the Secretary's consideration.'' Essentially, once a product is approved, the public is left with no protection or remedy at all.

Not only does this provision severely restrict the ability of claimants to recover for their injuries, it also fails to provide for any alternative form of recourse, leaving people who have been injured through no fault of their own to fend for themselves.

Mr. Chairman, no one here wants frivolous lawsuits. We simply want the tools to hold accountable corporations who have abused the public trust and would unduly profit from the war on terror. This bill is about protecting the public, protecting the health and safety of our citizens. It's not about giving a free ride to corporations who take advantage of the system. Let us not compromise these noble, bipartisan goals with a misguided provision added at the last minute.

I urge my colleagues to support this motion to strike.

OPPOSITION TO THE CONFERENCE REPORT ON THE BANKRUPTCY REFORM BILL

HON. JOHN D. DINGELL
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Mr. DINGELL. Mr. Speaker, I rise in opposition to the Conference Report on the Bankruptcy Reform bill (H.R. 333). The goal of the legislation, to ensure that debt that can be repaid is indeed repaid, is meritorious. However, the devil is in the details and many of these details are particularly devilish. This legislation will neither prevent more bankruptcies from occurring nor protect consumers. But it will sanction the continued predatory and abusive lending practices of the credit card industry, which has pressed hard for this legislation.

It is important to note that there is no consumer bankruptcy crisis in America. Despite the rascality perpetrated by the credit card industry, including the solicitation of minors, seniors and pets, personal bankruptcies are not increasing. In fact, even as the average household debt burden has continued to climb over the past few years, bankruptcies have dropped by around fifteen percent.

The only bankruptcy crisis we have in America is from companies like Enron and WorldCom. These corporations engaged in fraudulent accounting practices and then filed for bankruptcy to protect themselves from their creditors. These companies destroyed the lives and life savings of not only their employees, but investors everywhere. This conference report would not do anything to protect investors and employees from corporate wrongdoing such as this.

It is important to note, however, that this legislation will protect the large banks and other financial institutions that engage in predatory lending practices. This is wrong. Studies show that irresponsible and overly aggressive lending practices were behind the high level of bankruptcies in the mid 1990's. However, the industry has not learned its lesson. Even as the industry continues to experience high profits, it refuses to take responsibility for its poor lending practices and increases its marketing and credit extensions. Two years ago, the credit card industry increased its mail solicitations by about fourteen percent. Additionally, total credit extended, which includes unused credit lines and debt incurred by consumers, has approached three trillion dollars for the first time ever.

This outrageous behavior should not be rewarded. Unfortunately, the credit card industry has succeeded in winning enough support for a bill that encourages predatory lending at the expense of our most at risk citizens. Although a few helpful provisions were added to the bill, such as language to ensure that persons who use violence against clinics cannot shield their assets by filing for bankruptcy, on the whole, the bill hurts the poor and middle class. Americans deserve better, especially at a time when the economy has slowed and people's jobs are in jeopardy. As such, I urge all of my colleagues to oppose this wrongheaded piece of legislation.

OPPOSITION TO CONFERENCE AGREEMENT ON BANKRUPTCY REFORM

HON. JANICE D. SCHAKOWSKY
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Friday, July 26, 2002

Ms. SCHAKOWSKY. Mr. Speaker, I rise in opposition to the conference report on H.R. 333 ''The Bankruptcy Abuse Prevention and Consumer Protection Act.'' This legislation puts the interests of politically powerful credit card companies ahead of the interests of seniors and working families. That is why this conference report is opposed by every major consumer rights organization, over twenty women's right organizations, and the AFL–CIO. This is flawed legislation that could not come at a worse time. I urge my colleagues to reject this conference report.

Last year, a record 1.45 million people filed bankruptcy. Experts attribute this to deteriorating economic conditions and rising consumer debts. Research shows that nine in ten bankruptcies are triggered by the loss of a job, high medical bills or divorce. Yet this legislation would not allow a bankruptcy judge to take into account whether a debtor is blameless for his or her financial problem when decising whether the person can declare chapter 7 bankruptcy unless the debtor is a victim of terrorism. This will make it very difficult for consumers to escape debt.

This legislation will have especially harsh impact on senior citizens and women. According to research by the Consumer Bankruptcy Project at Harvard University, seniors are the fastest growing group in bankruptcy. About 82,000 Americans over 65 years-of-age filed for bankruptcy in 2001, up 244 percent since 1991. We will put seniors at the mercy of price-gouging card companies.

Women represent the single largest group in bankruptcy, with households headed by women accounting for about 40 percent of all bankruptcies today. This legislation will make it harder for them to escape debt and poverty by creating new types of ''nondischargeable'' credit card debts. The legislation puts banks in competition with women trying to collect child support from a former spouse after bankruptcy. Debtors will have to pay back more money in credit card debts after clearing bankruptcy, leaving less money for child support and alimony. Proponents of the conference report claim that this legislation gives top priority to women trying to collect child support when distributing assets in Chapter 7 cases. However, more than 90 percent of all chapter 7 debtors have no assets to distribute. They have no protection at all.

Amazingly, this conference report expands the most egregious abuse of the bankruptcy system by expanding the scope of the luxury home loophole to all fifty states. In five states, a debtor can hide all their resources in their home. Unless a debtor is guilty of a very narrow range of fraud or felonies, is declaring bankruptcy within 40 months of buying a home or has moved in from another state in the last two years, the loophole remains. This legislation will allow debtors to export the unlimited homestead exemptions for two years. This means that corporate thieves like former Enron CEO Ken Lay can move to my district and escape paying investors and workers. Ken Lay comes from Texas. Texas is one of the five states that does not have a cap on their homestead exemption. At the same time a laid-off worker from a state like Delaware that does not have a homestead exemption will lose a home that has as little equity as $30,000. This is an outrageous double standard.

This legislation is also noticeably silent when it comes to the role of credit card companies in increasing consumer debt and filed bankruptcies over the past decade. Credit card companies sent out five billion solicitations last year. Credit card companies target college students. College students lack independent means and have a high credit risk. Yet this legislation does not curb these practices in any significant way. Language to require responsible lending to college students has been severely weakened.

Also this bill does nothing to curb the practices of predatory lenders, who will be able to collect debts regardless of how they deceived consumers. This bill allows most lenders to provide only a general statement on the credit card bill about the risks of paying at the minimum rate and a toll-free number. Most consumers will not receive information that details the long-term risk of accumulating credit card debt.

This legislation lets wealthy debtors and credit card companies off the hook while it